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HOUSE BILL 477

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Gail C. Beam

AN ACT

RELATING TO UNFAIR TRADE PRACTICES; AMENDING A CERTAIN SECTION OF THE UNFAIR PRACTICES ACT CONCERNING DAMAGE AWARDS IN CLASS ACTION LAWSUITS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 57-12-10 NMSA 1978 (being Laws 1967, Chapter 268, Section 8, as amended) is amended to read:

"57-12-10. PRIVATE REMEDIES. --

A. A person likely to be damaged by an unfair or deceptive trade practice or by an unconscionable trade practice of another may be granted an injunction against it under the principles of equity and on terms that the court considers reasonable. Proof of monetary damage, loss of profits or intent to deceive or take unfair advantage of any person is not required. Relief granted for the copying of an article shall

underscored material = new  
[bracketed material] = delete

1 be limited as to the prevention of confusion or  
2 misunderstanding as to source.

3 B. Any person who suffers any loss of money or  
4 property, real or personal, as a result of any employment by  
5 another person of a method, act or practice declared unlawful  
6 by the Unfair Practices Act may bring an action to recover  
7 actual damages or the sum of one hundred dollars (\$100),  
8 whichever is greater. Where the trier of fact finds that the  
9 party charged with an unfair or deceptive trade practice or an  
10 [~~unconscionable~~] unconscionable trade practice has willfully  
11 engaged in the trade practice, the court may award up to three  
12 times actual damages or three hundred dollars (\$300), whichever  
13 is greater, to the party complaining of the practice.

14 C. The court shall award [~~attorneys'~~] attorney fees  
15 and costs to the party complaining of an unfair or deceptive  
16 trade practice or unconscionable trade practice if he prevails.  
17 The court shall award [~~attorneys'~~] attorney fees and costs to  
18 the party charged with an unfair or deceptive trade practice or  
19 an unconscionable trade practice if it finds that the party  
20 complaining of such trade practice brought an action [~~which~~]  
21 that was groundless.

22 D. The relief provided in this section is in  
23 addition to remedies otherwise available against the same  
24 conduct under the common law or other statutes of this state.

25 [~~E. In any class action filed under this section,~~

1 ~~the court may award damages to the named plaintiffs as provided~~  
2 ~~in Subsection B of this section and may award members of the~~  
3 ~~class such actual damages as were suffered by each member of~~  
4 ~~the class as a result of the unlawful method, act or~~  
5 ~~practice.] "~~

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